IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-20-00727

DIRECTOR OF PUBLIC PROSECUTIONS

v

BRIAN WILSON

JUDGE:	HIS HONOUR JUDGE WRAIGHT
WHERE HELD:	Melbourne
DATE OF HEARING:	17 August 2022 11 November 2022
DATE OF SENTENCE:	22 November 2022
CASE MAY BE CITED AS:	DPP v Wilson
MEDIUM NEUTRAL CITATION:	[2022] VCC 1995

REASONS FOR SENTENCE

Subject:	CRIMINAL LAW – Sentencing.
Catchwords:	Plea of guilty – Obtaining a financial advantage by deception – Obtaining property by deception – Course of conduct charges – Relevant prior criminal history – Limited prospects for rehabilitation – COVID-19 pandemic.
Legislation Cited:	*Crimes Act 1958* ss 81, 82(1); *Criminal Procedure Act 2009* Schedule 1 cl 4A; *Sentencing Act 1991* ss 5(2F), 6AAA, 6H, 9(1), 9(4A).
Cases Cited:	*Worboyes v The Queen* [2021] VSCA 169; *The Queen v Grossi* (2008) 23 VR 500.
Sentence:	Aggregate term of 5 years imprisonment, with a non-parole period of 3 years.

APPEARANCES:	Counsel	Solicitors
For the DPP	Mr A Grant Ms N Grunwald	The Director of Public Prosecutions
For the Accused	Mr D Sheales	Guthrie and Associates

HIS HONOUR:

1 **Introduction**

2 Brian Wilson, you have pleaded guilty to:

(a) nine charges of obtaining a financial advantage by deception contrary to s 82(1) of the *Crimes Act 1958* (‘*Crimes Act’*) (Charges 1, 2, 3, 4, 7, 8, 9, 10 and 11), which carries a maximum penalty of 10 years imprisonment; and

(b) two charges of obtaining property by deception contrary to s 81 of the *Crimes Act* (Charges 5 and 6), which also carries a maximum penalty of 10 years imprisonment.

3 You have also admitted your Criminal Record.

4 **Circumstances of the offending**

5 A prosecution opening was tendered on the plea and may be summarised as follows:

6 At the time of the alleged offending you were between 51 and 52 years of age.

7 The offences that are the subject of the charges on the indictment were committed between 24 October 2018 and 6 September 2019. The offending took place after you gained the trust of the victim Mark Foster, and convinced him to ‘invest’ in a number of fraudulent business proposals.

8 At the time of the offending, Mark Foster was 82 years of age.

9 It is alleged that during the period of the offences, your fraudulent activity resulted in Mr Foster paying you a total of $1,929,000.00.

10 Mr Foster was first introduced to you in about 2015 or 2016. You met through a good friend of Mr Foster.

11 In about August 2018, the friend arranged for Mr Foster to meet you on a number of occasions. At that time Mr Foster did not know you very well.

12 Mr Foster had noticed that his faculties were declining as he was getting older - in his own words, he noticed that that he wasn't 'as sharp' as he used to be. As a result, in about August 2018, he decided to sell his family home and move to a retirement Village in Rosebud known as 'Village Glen' in Capel Sound. He subsequently placed his family home on the market for $1.6 million.

13 After Mr Foster listed his home for sale, you began to attend at his house and befriended him. You helped Mr Foster move his belongings to the retirement village, paid for a skip and assisted Mr Foster to dispose of his rubbish. Mr Foster found you very helpful and friendly, and was appreciative of the help that you gave him.

14 During your conversations at that time, Mr Foster told you his home was mortgage-free. He also discussed his financial situation with you.

15 Mr Foster's family home sold for $1.6 million and he moved to the Village Glen Retirement Village. Soon after he settled in, you began to visit him there.

16 At that time, Mr Foster considered you to be a good friend. After you became close to Mr Foster, you began discussing your own business activities with him. You told Mr Foster that you worked from home. Over the period of the alleged offending, you spoke to Mr Foster about a number of aspects of your own purported business dealings, which you claimed were quite profitable. You offered to include Mr Foster in those business dealings, and proposed that if Mr Foster provided funds to be used in the relevant businesses, you would share the profits equally with him.

17 Those discussions initially occurred when you visited Mr Foster at the retirement village. However, after some time, you stopped visiting Mr Foster and instead discussed the business proposals with him via text message.

18 On occasion, Mr Foster would make notes during these discussions. He kept copies of those notes and the text messages received from you. Those notes and text messages were subsequently provided to investigators.

19 You induced Mr Foster to provide you with the funds that are the subject of each charge, by falsely claiming that you were involved in a number of business activities which were likely to be highly profitable. You claimed that if Mr Foster provided you with the funds necessary to engage in those business activities, you would share any profit that you made with him. Those purported business activities included:-

(a) the sale of cleaning products and other goods to customers involved in a purported cleaning contract with Brimbank Council (Charge 1);

(b) the sale of chemicals that were purportedly used to 'clean milk' (Charge 2);

(c) the sale of cleaning products and other goods to customers involved in a purported cleaning contract in Geelong (Charge 3);

(d) the sale of cleaning products and other goods to customers involved in a purported cleaning contract in Ballarat (Charge 4);

(e) the purchase and sale of second-hand waterjet cutting machines through your association with a company known as Techni Jet (Charges 5 and 6);

(f) the purchase and sale of replacement parts and a special type of sand for use on waterjet cutting machines (Charges 7 and 8);

(g) the sale of cleaning products and other goods to customers involved in a purported cleaning contract with Metricon Homes (Charge 9); and

(h) the sale of cleaning products and other goods to customers involved in a purported cleaning contract with TAFE (Charge 10).

20 The investigation revealed that you were not in fact involved in those activities. The prosecution case is that you falsely purported to be involved in those business activities to convince Mr Foster to provide you with funds which you used for gambling purposes.

21 It is also alleged that you convinced, or attempted to convince, Mr Foster to loan you money to allow you to pay off a car loan (Charge 11). Again, the prosecution contend that you engaged in that activity to fraudulently induce Mr Foster to provide you with funds that you could use for gambling.

22 Throughout the period of the alleged offending, you fraudulently induced Mr Foster to invest funds in a particular 'business opportunity' on multiple occasions. This conduct is represented by rolled-up charges.

23 On other occasions, you fraudulently induced Mr Foster to provide funding of more than $50,000.00 for a particular 'business opportunity'. These transactions have been represented by Charges 6 and 8 which are rolled up continuing criminal enterprise offences.

24 However, as a result of the operation of the provisions relating to continuing criminal enterprise offences, including s 6H(1) of the *Sentencing Act 1991* ('*Sentencing Act*'), you do not fall to be sentenced as a 'continuing criminal enterprise offender'. That is because there are two continuing criminal enterprise offences on the indictment. You last appeared in court for other dishonesty offences over 10 years ago. As a result those offences are not 'relevant offences' as defined by s 6H(1) of the *Sentencing Act*. While the current offences reach the threshold of qualifying you as a continuing criminal enterprise offender, you are not to be sentenced as a continuing criminal enterprise offender as you have not been found guilty of three or more continuing criminal enterprise offences.

25 Consequently, the maximum penalty for each of the current offences is 10 years imprisonment.

26 The prosecution summary tendered and read on the plea provides further details and Schedules in relation to each of the charges on the indictment. As such it is not necessary that I reproduce that detail in these sentencing reasons. However, the amount of money obtained by you in relation to each charge is as follows:

- Charge 1 – $324,100.00
- Charge 2 – $273,900.00
- Charge 3 – $55,100.00
- Charge 4 – $215,100.00
- Charge 5 – $37,000.00
- Charge 6 – $210,000.00
- Charge 7 – $150,000.00
- Charge 8 – $414,000.00
- Charge 9 – $215,600.00
- Charge 10 – $20,200.00
- Charge 11 – $18,000.00

27 In relation to Charge 11, Mr Foster repeatedly asked you for the return of the $18,000.00 he provided you to assist him to purportedly sell his car. You became aggressive and called Mr Foster a ‘fucking asshole’ and ‘piece of shit’. You told Mr Foster to stay away from you and not to talk to you again.

28 However, Mr Foster continued to ask for the money that was owed. You responded by telling Mr Foster that he could go into the bankruptcy list ‘just like everybody else’.

29 In about mid-September 2019, Mr Foster told his partner about his dealings with you. He showed her the copy of the contract that was the purported cleaning contract you had with Brimbank Council. After reviewing the document they discovered it was not legitimate. Mr Foster then realised that you had been deceiving him and that it was highly likely the other business proposals and investments were false.

30 Mr Foster and his partner subsequently attended at the Rosebud Police Station and reported their concerns to the police. At that time, he was not aware that you had applied the funds he had provided you to gamble on horse racing.

31 On 21 November 2019 you were interviewed. You told investigators that you had known Mr Foster for six or seven years. You agreed that you helped Mr Foster move from his house into the retirement village. You also told them that you paid for a skip for Mr Foster's rubbish and helped him clean his house.

32 You denied asking Mr Foster about his financial affairs. You claimed you had never seen the purported cleaning contract with Brimbank Council.

33 When asked about the alleged offending, you relied on your right to make 'no comment'.

34 After the first interview concluded, you told the informant that the funds you had received from Mr Foster had been moved through your TAB account, your Sportsbet account and, to a lesser extent, through your Beteasy account.

35 Investigators subsequently obtained your bank records. Analysis of those records revealed that Mr Foster did indeed transfer funds into your bank account. The records did not reveal any income from a source such as the cleaning contracts you had referred to, or that you purchased significant quantities of cleaning goods, or any type of machinery during the relevant period.

36 Instead, the bank records revealed that the funds provided by Mr Foster had been applied to gambling websites, including Tabcorp, Sportsbet, Beteasy and Ladbrokes.

37 Investigators also obtained financial records relating to your accounts with Tabcorp, Sportsbet, Beteasy and Ladbrokes.

38 The records obtained from Tabcorp revealed that you had deposited $2,286,911.00 into your account between August 2018 and November 2019. During that period you placed bets totalling $10,807,078.00.

39 The records obtained from Sportsbet revealed that between August 2018 and November 2019, you deposited $483,091.00 into your account and placed bets totalling $6,993,878.00.

40 The records obtained from Beteasy revealed that between April 2019 and September 2019, you deposited $45,226.00 into your account and placed bets totalling $440,314.00.

41 The records obtained from Ladbrokes revealed that between February 2019 and August 2019 you deposited $13,640.00 into your account.

42 On 12 March 2020, investigators interviewed you for a second time. You again admitted that you befriended Mr Foster at about the time he sold his Mount Martha home. You admitted you spoke about Mr Foster's financial affairs. You also admitted you suggested a number of business proposals with Mr Foster, including the buying and selling of cleaning products. You admitted there had been no written agreement, but that you had suggested that Mr Foster provide funds to purchase cleaning products that would then be sold and that you had agreed to split the profit between you.

43 You claimed that you did in fact buy cleaning products with the funds provided by Mr Foster. However you did not provide any details about where you bought

those products. You admitted that you told Mr Foster you were working for a company called Techni Jet.

44 When asked further questions about the alleged offences, you again relied on your right to make ‘no comment’.

45 You admitted that you sent Mr Foster a text message asking for $18,000.00 to pay out your car loan, and that you told Mr Foster he would earn $4,000.00 from the arrangement. You also agreed that no money had been repaid to Mr Foster in relation to that transaction.

46 You also admitted that you had given Mr Foster cheques which were subsequently dishonoured, including two cheques for $33,000.00 which were apparently the proceeds of the sale of a waterjet cutting machine for $66,000.00.

47 You denied that you ever abused Mr Foster or called him an asshole.

48 You admitted that after the first interview on 21 November 2019, you told the informant that the funds you had received from Mr Foster had been moved through your TAB account, your Sportsbet account and to a lesser extent, through your Beteasy account.

49 When the informant advised you that he had obtained the account records relating to your betting accounts, and they showed that over $20 million worth of bets were placed in the one year period during which the offences are alleged, you responded, ‘Oh obviously, yeah, that is the case’.

50 You also admitted that you had been placing bets with Ladbrokes to a lesser extent.

51 When it was suggested that you gambled predominantly through the TAB account (spending over $13 million), six million dollars through Sportsbet and less than a million dollars through the other two accounts you responded, ‘It sounds about right’.

52 You were unable to recall your account number but told the informant you banked with the Commonwealth Bank.

53 Investigators contacted Shane Buckley, the Business Support Manager for Brimbank Council, and showed him the purported cleaning contract that you had provided to Mr Foster. Mr Buckley advised that it was not a legitimate contract. He also checked the financial records of Brimbank Council and noted that the council had never made any payment to you or your company, Peninsula National Services Pty Ltd.

54 Investigators also spoke to Christine Denford, who was the Executive Assistant and Office Manager for GMA Garnet Group located in Perth. She checked the financial records of the company and noted that there was no record of you or your company Peninsula National Services Pty Ltd buying garnet sand from them. She also checked the accounts for Techni Jet and noted that neither you nor your company were recorded as having made any purchases on that account either.

55 In addition, investigators spoke to Kristi Warburton, who was the Accounts Payable Manager for Metricon Homes. She advised that she had never heard of you or your company Peninsula National Services Pty Ltd. She checked the financial records for Metricon Homes and noted that there was no record of you or your company working for Metricon Homes as a contractor or cleaner.

56 **Nature and gravity of the offending**

57 It is undeniable that your offending is very serious. You took advantage of a trust you had developed and nurtured with an elderly and vulnerable man. Over approximately a one year period, you took $1.929 million from him. While in the course of the offending you returned some money to Mr Foster in the order of some $300,000, you continued to request further funds and it is not in dispute that all of the money you obtained from the victim was gambled by you. Your

dishonest conduct was calculated and sustained, and can only be described as reprehensible.

58 Mr Grant, who appeared with Ms Grunwald on behalf of the Director of Public Prosecutions, highlighted a number of matters which he submits should be taken into account when considering the gravity of your offending as follows:

- the frequency and duration of the offending (for example, that it involved some 112 requests for funds over the offending period for purported business opportunities);
- the significant degree of planning and sophisticated nature of the offending;
- the value of the financial advantage obtained;
- the steps taken to conceal the offending;
- the significant breach of trust; and
- the vulnerability of the victim and the impact of the offending on him.

59 These points are expanded on in the written submissions and I accept that they are relevant matters which I have taken into account. Mr Sheales, who appeared on your behalf, did not take issue with the characterisation of the offending as outlined by Mr Grant, accepting the very serious nature of your conduct.

60 The victim, Mark Foster, was 82 years old when you committed the crimes against him, and he is now 86. In his eloquent victim impact statement Mr Foster states:

> 61 *All of this money has now gone, and this has left me totally devastated. Since the loss of this money, I constantly worry about how I can survive financially. I am 86 years old and I worked hard all my life. I saved and*

planned very hard for my retirement, and I now find myself worried about the ability to provide for myself for the rest of my life.

62 Mr Foster goes on to say that his mental health has also suffered significantly. He has suicidal thoughts and on one occasion has attempted suicide. He fears that the impact of your crimes will affect him for the remainder of his life.

63 The victim's statement clearly demonstrates the serious impact of your cruel, self-centred conduct. You befriended an elderly man who in his own words says that he was 'not as sharp as he used to be' and you completely took advantage of him.

64 In my view your offending represents a high end example of this type of deceptive conduct against a vulnerable individual and thus, in all the circumstances your moral culpability is also very high.

65 **Personal circumstances**

66 You were born in 1966 and are now 55 years of age. You have a younger brother and remain on good terms with him. Your father worked as a forest ranger and your mother a homemaker who took on some cleaning work when you and your brother were older.

67 You grew up in Mansfield, where you attended the local primary school, and describe your early years as having been in a 'very normal loving family'.

68 You were an average student and you progressed through primary school without repeating grades or suffering any significant difficulties in terms of your development. You attended Mansfield High School from Years 7 to 10, and ultimately matriculated from Assumption College in 1985, where you were a boarder for Years 11 and 12. You engaged actively in AFL football while at Assumption College and gained a supportive friendship circle. While at Mansfield

High School, you were suspended for abusing a teacher who hit you and were also suspended at Assumption College for drinking.

69 You disclosed to clinical and forensic psychologist Patrick Newton in an assessment with him on 2 November 2022, that you were sexually abused by a former partner of your grandmother. The abuse occurred during visits to your grandmother's house when you were younger. You found this experience confusing and distressing. You stated to Mr Newton that you were unclear regarding any ongoing effects from the experience, noting that you 'just don't think about it'.

70 After completing high school, you worked with your cousin as a sales representative for a textiles company. You moved to Melbourne and continued working in the warehouse. You went on to complete a TAFE course in marketing and later a Certificate 4 in Horticulture. You have worked primarily in the sales industry, although you generally found this work to be unfulfilling. For the past several years, you have been self-employed as a handyman.

71 You married at the age of 19 and remained in that marriage until your mid-thirties, when the relationship broke down due to various pressures, including your burgeoning gambling problem. The marriage ultimately ended when you were arrested and imprisoned for earlier dishonesty offending. You have been with your current partner, Nicole since 2010. Nicole has two children from a previous relationship and you play a parental role in their lives. She remains supportive of you in the face of these legal proceedings and you believe the relationship to be secure, although you have expressed some anxiety about the future of the relationship if you are sentenced to a lengthy term of imprisonment.

72 You were distressed to have been charged with these offences and have experienced bouts of intense anxiety and despondency as a result. The most intense of these, an episode of suicidal ideation, occurred about three years ago. By your own account, you drove your car into a tree in an effort to end your own

life. You spoke with a telephone counsellor who advised you to attend the hospital. The medical staff there reportedly wished to admit you to the psychiatric ward for your own safety, but you left the hospital against their advice and went interstate to make preparations to take your own life. It was only after your partner called you that you desisted from this plan and returned to Melbourne, where you admitted yourself as a psychiatric inpatient for about a week. You were discharged without any follow up mental health support. However, you were provided with referrals for gambling related counselling services, which you consulted and found helpful.

73 You have an extensive history of problem gambling. Gambling was a normalised pastime in your family growing up. Both of your parents gambled and your grandmother introduced you directly to gambling-related behaviours at the age of 10. During your visits with her, the two of you selected horses together and walked to the TAB where your grandmother would place wagers on the chosen horses. As soon as you left high school, you began gambling in your own right, which commenced as a social activity with friends, and then escalated into a weekly routine. Over time, you gambled with greater sums of money, which incurred greater losses. The risks you took amplified as you tried to recoup your losses and you turned to borrowing money in order to cover your debts. You fell into a cycle, which affected your marriage and business affairs and you were unable to stop gambling, even in the face of mounting financial and personal troubles.

74 In Mr Newton's report dated 8 November 2022, he provides an overview of your mental health history. You have previously experienced depressive mood disturbance and have sought counselling from time to time as an adult to address issues related to stress. However, you have never committed to long-term treatment due to not finding counselling helpful. In general, you have expressed considerable scepticism about the benefits of mental health care. You are currently not receiving mental health treatment of any kind.

75 I also note that Mr Newton asked you to complete a Personality Assessment Inventory in order to assist in his assessment of you. Mr Newton states that you provided a grossly distorted profile as a result of you presenting yourself in an exaggerated negative light, rendering the test invalid.

76 Mr Newton states that you presented with symptoms of mild depression and anxiety. Mr Newton concluded that while your symptoms cause you a degree of stress, they are not sufficiently severe to meet the criteria for any active mental disorder.

77 Mr Newton assessed your gambling behaviour as being sufficiently severe to meet the *DSM-5* diagnostic criteria for a 'gambling disorder'. However he notes that there is no indication to suggest that you were labouring under the effects of any mental disorder at the time of your offending.

78 You report last gambling at significant levels 'about a year ago' and admitted to gambling a small amount on poker machines about three weeks prior to your consultation with Mr Newton. You are not currently engaged with any gambling related treatment and expressed to Mr Newton that you did not believe this was required. This is in spite of the fact that the current offending, and indeed all of your prior offending between 2003 and 2008, has stemmed from attempts to support your gambling habit.

79 You have a relevant prior criminal history which began in 2003 where you faced charges of defrauding the Commonwealth. From 2004 to 2008 you appeared in court on four occasions facing numerous charges of obtaining property or financial advantage by deception. You have breached community corrections orders in relation to some of those appearances. Significantly, in 2007 you appeared in this Court on deception charges in relation to some $76,000 where you were sentenced to 3 years imprisonment with a non parole period of 18 months.

80 Three references were tendered from long term colleagues, each of which offer you their continued support. Two of the referees have offered to employ you upon your release from prison.

81 **Sentencing considerations**

82 I take into account your plea of guilty. The matter took some time to proceed through the committal process and came to this court as a straight hand up brief on 4 June 2020. Following a number of adjournments, the victim's evidence was pre-recorded for trial on 3 September 2021. The trial was listed to commence on 27 April 2022, however the matter resolved and you pleaded guilty on 28 April 2022 to all charges. While your plea was not entered at the earliest opportunity, it still has utilitarian value. The trial would have been lengthy and your plea has saved significant court time and expense, noting however that the way in which the matter has resolved did not spare the victim from having to give evidence and be subject to cross examination.

83 Your plea of guilty carries additional weight which must be reflected in a further amelioration in sentence, as the plea has been entered in circumstances where the pandemic has created a substantial backlog of cases in the criminal justice system.[1]

84 As noted above, this matter has had a lengthy procedural history, however I note from the chronology provided, that some adjournments in this court were a result of you not meeting filing timetables. Nonetheless, while delay was not raised as a matter in mitigation, I accept that this matter has been hanging over your head for some time resulting in further anxiety. I also take into account that in the period between being charged and the plea you have not reoffended.

85 General deterrence and denunciation of your conduct are prominent sentencing considerations. Your offending involved a gross breach of trust where you took advantage of an elderly and vulnerable man over an extended period. A strong

[1] *Worboyes v The Queen* [2021] VSCA 169 at [39].

message must be sent that conduct of this nature will be denounced by the Court and met with stern consequences.

86 Turning to specific deterrence, you have a number of prior convictions for similar dishonesty offending where you have in many instances, served terms of imprisonment. Your gambling problem remains your biggest hurdle. As noted by Mr Newton, you have received virtually no treatment to address your problem despite the fact that you have served other periods of custody for similarly motivated offending. Your insight is limited and your understanding of relapse prevention is poor. As result, Mr Newton states that this places you at an elevated risk for relapse. Thus, specific deterrence must also feature prominently in the sentencing calculus.

87 Mr Sheales emphasised your gambling as an explanation for your offending and did not seek to rely on any *Verdins* principles. While in some instances gambling may be a mitigating factor, in this instance, in all the circumstances, it is of limited weight. As is well established, addiction to gambling as a mitigating factor is only available in a narrow range of circumstances. Given the serious nature of your calculated offending and the gross breach of trust in this instance, in my view your gambling addiction is subsumed by the need to give sufficient weight to the other prominent sentencing considerations of deterrence, both general and specific, and denunciation of your conduct.[2]

88 As to your prospects of rehabilitation, as noted by Mr Newton, they depend largely on your ability to access and accept the treatment you need to institute changes in your lifestyle. You have been unable to overcome your gambling addiction, which has been linked to your previous offending for which you have already served terms of imprisonment. That said, as noted by Mr Newton, you are an intelligent man and you have supports in the community. Thus it remains up to you to make changes and meaningfully address your gambling. In all the

[2] *The Queen v Grossi* (2008) 23 VR 500, [56] and [57].

circumstances, in my view your prospects of rehabilitation at this stage are unable to be assessed positively.

89 As you will be sentenced to a term of imprisonment, I take into account the current custodial environment which is still labouring under the impact of the Covid-19 pandemic. While the conditions have begun to improve, many services remain limited and prisoners are subject to periods of lockdown and quarantine.

90 I take into account that but for Charges 5 and 11, all other Charges satisfy the definition of course of conduct charges.[3] As such, s 5(2F) of the *Sentencing Act* applies, which provides that in sentencing you in relation to the course of conduct charges, I must impose a sentence that reflects the totality of the offending that constitutes a course of conduct and that I must not impose a sentence that exceeds the maximum penalty for the offence if charged as a single offence.

91 Finally, I have formed the view that in the circumstances, an aggregate sentence should be imposed in relation to all charges. Pursuant to s 9(1) of the *Sentencing Act*, the offences to which you have pleaded guilty form part of a series of offences of the same or a similar character.[4] Further, I note that pursuant to s 9(4A) of the *Sentencing Act*, an aggregate sentence of imprisonment may be imposed in respect of convictions for offences that are the subject of a rolled up charge.

92 **Sentence**

93 Mr Wilson, would you please stand.

94 Brian James Wilson, on Charges 1 to 11, you are convicted on all charges and sentenced to an aggregate term of 5 years imprisonment. I direct that you serve 3 years before becoming eligible for parole.

[3] Clause 4A of Schedule 1 to the *Criminal Procedure Act 2009.*
[4] Section 9(1), *Sentencing Act 1991.*

95 Pursuant to s 18 of the *Sentencing Act*, I declare that 11 days be reckoned as the period of imprisonment already served under the sentence I have imposed. That does not include today.

96 Pursuant to s 6AAA of the *Sentencing Act*, if not for your plea of guilty I would have sentenced you to a period of imprisonment of 8 years with a non-parole period of 5 years.